

§ 101.31

Board, together with an informal analysis by the hearing officer of the issues and the evidence but without recommendations. All parties may file briefs with the Regional Director or the Board within 7 days after the close of the hearing. If the case is transferred to the Board after the close of the hearing, briefs may be filed with the Board within the time prescribed by the Regional Director. The parties may also request to be heard orally. Because of the nature of the proceeding, however, permission to argue orally is rarely granted. After review of the entire case, the Board issues a decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the Regional Director in the manner already described in § 101.19.

(d) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots as has already been described in connection with the postelection procedures in representation cases under section 9(c) of the Act.

Subpart F—Jurisdictional Dispute Cases Under Section 10(k) of the Act

§ 101.31 Initiation of proceedings to hear and determine jurisdictional disputes under section 10(k).

The investigation of a jurisdictional dispute under section 10(k) is initiated by the filing of a charge, as described in § 101.2, by any person alleging a violation of paragraph (4)(D) of section 8(b). As soon as possible after a charge has been filed, the Regional Director serves on the parties a copy of the charge together with a notice of the filing of such charge.

§ 101.32 Investigation of charges; withdrawal of charges; dismissal of charges and appeals to Board.

These matters are handled as described in §§ 101.4 to 101.7, inclusive. Cases involving violation of paragraph (4)(D) of section 8(b) in which it is deemed appropriate to seek injunctive relief of a district court pursuant to section 10(l) of the Act are given pri-

29 CFR Ch. I (7–1–06 Edition)

ority over all other cases in the office except other cases under section 10(l) of the Act and cases of like character.

§ 101.33 Initiation of formal action; settlement.

If, after investigation, it appears that the Board should determine the dispute under section 10(k) of the Act, the Regional Director issues a notice of hearing which includes a simple statement of issues involved in the jurisdictional dispute and which is served on all parties to the dispute out of which the unfair labor practice is alleged to have arisen. The hearing is scheduled for not less than 10 days after service of the notice of the filing of the charge, except that in cases involving the national defense, agreement will be sought for scheduling of hearing on less notice. If the parties present to the Regional Director satisfactory evidence that they have adjusted the dispute, the Regional Director withdraws the notice of hearing and either permits the withdrawal of the charge or dismisses the charge. If the parties submit to the Regional Director satisfactory evidence that they have agreed upon methods for the voluntary adjustment of the dispute, the Regional Director shall defer action upon the charge and shall withdraw the notice of hearing if issued. The parties may agree on an arbitrator, a proceeding under section 9(c) of the Act, or any other satisfactory method to resolve the dispute. If the agreed-upon method for voluntary adjustment results in a determination that employees represented by a charged union are entitled to perform the work in dispute, the Regional Director dismisses the charge against that union irrespective of whether the employer complies with that determination.

§ 101.34 Hearing.

If the parties have not adjusted the dispute or agreed upon methods of voluntary adjustment, a hearing, usually open to the public, is held before a hearing officer. The hearing is non-adversary in character, and the primary interest of the hearing officer is to insure that the record contains as full a statement of the pertinent facts